IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 1868 of 2005

Between:

Konkula Mallesh S/o Durgaiah
Singareni Collieries Company. Ltd., r/o Bellampally, Adilabad District

..... PETITIONER

AND

1 The Chairman and Managing Director, Singareni Collieries Company Ltd., Hyderabad
2 The management of Singareni Collieries Company Limited, rep by Deputy General Manager
(Personnel Kothagudem Collieries, Kothagudem, Khammam District
3 The General Manager, Singareni Collieries Company Ltd., Mandamarri, Adilabad District
4 The General manager, Singareni Collieries, Company Limited, Manuguru, Adilabad District

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or Direction more particularly one in the nature of Writ of Mandamus declaring the proceedings in Ref. No. CRP/PER/PM/4282/2302/dt 29-11-2004 issued by the Second respondent as illegal, improper, unjust and contrary to standing order 21-1-of the standing orders of the Singareni Colleries Company limited and pass such other order or orders as may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.P.V.VIDYASAGAR

Counsel for the Respondents: MR.NANDIGAM KRISHANA RAO, S.C. for Singareni Colleries Co. Ltd.

The Court made the following :

ORAL ORDER:

This writ petition is filed challenging the Proceedings in Ref. No.CRP/PER/PM/4282/2302, dated 29.11.2004 passed by the 2nd respondent.

Sri P.V. Vidyasagar, learned counsel for the petitioner has contended that the petitioner along with four others was transferred from one place to another place and his transfer is contrary to the clause 21.1 of the Standing Orders. He has further contended that after the petitioner was reinstated into service, the authorities concerned, with a *mala fide* intention, transferred him frequently from place to place, but the transfer of two other persons was cancelled. Therefore, the impugned order suffers from serious legal infirmities.

On the other hand, Sri N.Krishna Rao, learned standing counsel for the respondents has contended that by virtue of this transfer order, there will not be any change in the present service conditions, grade and rate of pay; and the job of the petitioner has not been changed and it is only an administrative transfer. Therefore, there are no

grounds to interfere with the impugned proceedings.

As seen from the impugned proceedings, dated 29.11.2004, the petitioner is one among the five candidates who were transferred from SK, CSP, MM area to Manuguru Area. By virtue of this transfer order, there will not be any change in the present service conditions, grade or rate of pay except they will be governed by the hours of work, holidays, etc. as applicable to the staff working in the Mines Department. It is not a case of transfer by way of punishment, nor is it a case of malice on the part of the transferring authority. The transfer order has been issued by the 2nd respondent-Deputy General Manager. No specific allegations or *mala fides* are attributed to the transferring authority except stating that after reinstatement, the petitioner was frequently transferred from one place to another. Therefore, in the absence of any specific allegations or *mala fide* action on the part of the 2nd respondent, it cannot be said that frequent transfers are ill-motivated.

The next ground on which the petitioner has challenged the impugned order is that his transfer is made against the clause 21.1 of the Standing Orders which reads as under:

> *"Workmen may be transferred due to exigencies of work from one station to another, from one coal mine to another or from one establishment/Dept./Sec. to another within the same Company, provided that the pay, grade, other conditions or service of the workmen are not adversely affected by such transfer and provided further that if a workman is transferred from one job to another, the job should be of similar nature and such as he is capable of doing and provided further that (i) except in case of emergency, minimum notice of two weeks is given of such transfers and (ii) reasonable joining time is allowed in case of transfers from one station to another."*

A perusal of the above Standing Order makes it clear that if the job of the petitioner has been changed, then only the Standing Order is

applicable. Since the petitioner has been transferred from one place to another, it will not have any effect. Therefore, the above Standing Order has no application to the facts of the present case inasmuch as the petitioner has not been transferred from one job to another job.

The other ground on which the petitioner has challenged the impugned order is that two of the persons who were transferred along with the petitioner have been retained and this, in my considered opinion, cannot be a ground to retain the petitioner at SK, CSP, MM area. It is for the 2nd respondent who has to take appropriate decision depending upon the exigencies of the work. Therefore, the transfer order under challenge does not suffer from any legal infirmities so as to call for interference by this Court and the writ petition is devoid of merit and is liable to be dismissed.

The writ petition is accordingly dismissed. However, this order will not preclude the respondents from considering the representation of the petitioner in the right perspective and it is also made clear that the respondents shall give joining time as per the Standing Order applicable to the service conditions of the petitioner. In the circumstances of the case, there shall be no order as to costs.

(K.C. BHANU, J.)

8th February, 2005

bcj

To

1 The Chairman and Managing Director, Singareni Collieries Company Ltd., Hyderabad
2 The Deputy General Manager (Personnel), The management of Singareni Collieries Company Limited, Kothagudem Collieries, Kothagudem, Khammam District
3 The General Manager, Singareni Collieries Company Ltd., Mandamarri, Adilabad District
4 The General manager, Singareni Collieries, Company Limited, Manuguru, Adilabad District

5. Two C.D. copies